

Amendment No. _____

Signature of Sponsor

AMEND Senate Bill No. 517*

House Bill No. 649

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 7-82-704, is amended by deleting the section and substituting:

(a)

(1) If a utility district is financially distressed or is financially unable to expand the amount or type of service or services as set forth and described in its petition for creation pursuant to § 7-82-201, then, in order to restore the financial stability and to ensure continued operations for the benefit of the public being served by the financially distressed utility district, the utility management review board may consider:

(A) The merger of the financially distressed utility district with another utility district or districts;

(B) The consolidation of the financially distressed utility district with a municipal utility system or county utility system; or

(C) The acquisition of the financially distressed utility district by an investor-owned utility or cooperatively owned utility.

(2) The utility management review board may initiate and participate in negotiations among the financially distressed utility district, the entity described in subdivision (a)(1)(A), (a)(1)(B), or (a)(1)(C), and other affected parties concerning a merger, consolidation, or acquisition.



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(3) If the utility management review board determines that a merger, consolidation, or acquisition is in the best interest of the public being served by the financially distressed utility district, and the utility management review board is able to negotiate an agreement among all affected parties for the merger, consolidation, or acquisition, then the utility management review board shall enter an order approving the merger, consolidation, or acquisition agreement and shall require the financially distressed utility district to enter into the merger, consolidation, or acquisition agreement.

(4) If the utility management review board determines that the financially distressed utility district, the entity described in subdivision (a)(1)(A), (a)(1)(B), or (a)(1)(C), or another affected party has refused or failed to enter into good faith negotiations on a merger, consolidation, or acquisition, then the utility management review board shall petition the chancery court in a jurisdiction in which the financially distressed utility district is operating to require the party or parties to engage in good faith negotiations concerning the merger, consolidation, or acquisition.

(5) If the board of commissioners of the financially distressed utility district does not enter into the approved merger, consolidation, or acquisition agreement or fails to abide by the terms and conditions of the merger, consolidation, or acquisition agreement, then the utility management review board shall petition the chancery court in a jurisdiction in which the financially distressed utility district is operating to enforce the utility management review board's order to require the board of commissioners to enter into the approved merger, consolidation, or acquisition agreement and to abide by and implement the terms and conditions of the merger, consolidation, or acquisition agreement.

(b)

(1) In order to mitigate any negative financial impact of the merger, consolidation, or acquisition on the entity described in subdivision (a)(1)(A), (a)(1)(B), or (a)(1)(C), the utility management review board is authorized to develop a plan of mitigation payments to the entity.

(2) Mitigation payments must be made from funds available in the utility district revitalization fund and must include:

(A) Amounts to offset increased administrative costs relating to the merger or consolidation, to the extent those costs cannot reasonably be recovered from customer revenues or other assets of the financially distressed utility district;

(B) Amounts that may be necessary to cure a default on indebtedness of the financially distressed utility district to the extent those defaults can, in the opinion of the utility management review board, reasonably be cured;

(C) Amounts that may be necessary to renovate and repair the facilities of the financially distressed utility district to the level necessary to enable the entity described in subdivision (a)(1)(A), (a)(1)(B), or (a)(1)(C) to provide continued service to the public being served by the financially distressed utility district; and

(D) Other payments as may be necessary in the opinion of the utility management review board to accomplish the merger, consolidation, or acquisition and mitigate the financial impact of the merger, consolidation, or acquisition.

(c)

(1) The utility management review board shall contract with the entity described in subdivision (a)(1)(A), (a)(1)(B), or (a)(1)(C) to provide for the

repayment of mitigation payments over a period of time as may be agreed upon by the utility management review board and the entity.

(2) Repayments may be made from surcharges levied upon the customers in the service area of the financially distressed utility district being merged or consolidated as long as those surcharges do not result in user fees in the service area of the financially distressed utility district being in excess of the maximum level of user fees as may be determined by the utility management review board to be reasonable for the service area.

(3) If the utility management review board determines that repayment of the mitigation payments would be unduly burdensome and financially detrimental to the customers described in subdivision (c)(2), then the utility management review board may waive repayments required pursuant to this section as long as the waiver is also approved by the commissioner of finance and administration.

(4) Repayments received by the board pursuant to this section must be deposited into, and become part of, the utility district revitalization fund.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.